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NCPERS Healthcare Symposium
January 24, 2016
Overview

- Review the ACA market reform rules and how they apply to governmental plans
  - Highlight what’s new for 2016
- Review the employer mandate and MEC reporting rules and how they apply to governmental plans
- Discuss HHS enforcement framework, including approach to conducting market conduct examinations of governmental plans.
ACA Enforcement Framework

- ACA insurance market reforms and MHPAEA enforced under complex HIPAA enforcement scheme.
  - For issuers, HIPAA allocates enforcement authority between states and federal government (HHS).
  - For other types of group health plans, enforcement is split among HHS, DOL, and IRS, depending on type of plan.
  - See, e.g., Health Insurance Market Final Rules, 78 Fed. Reg. 13406, 13419 (“The HIPAA enforcement standard ... applies to the market reform provisions ... created by the Affordable Care Act”).
Non-federal Governmental Plans

- HHS Direct enforcement authority over non-federal governmental plans.
  - E.g., State teacher or municipal workers’ health plans.
- HHS Enforcement Mechanism:
  - May impose civil penalties of up to $100 per day, per violation, per affected individual.
  - Penalty assessments subject to administrative and judicial review. See PHSA § 2723(b)(2).
- HHS Enforcement strategy is currently voluntary compliance driven.
Market Reform Rules

• Lifetime and annual limits on essential health benefits (PHSA § 2711);
• Rescissions of coverage (PHSA § 2712);
• Dependent coverage up to age 26 (PHSA § 2714);
• Preexisting condition exclusions (PHSA § 2704);
• No cost sharing for immunizations or preventive services (PHSA § 2713);
• Choice of pediatrician or gynecological providers (PHSA § 2719A);
• Emergency services coverage (PHSA § 2719A(b));
• Internal and external appeal rules (PHSA § 2719);
• Summary of Benefit Coverage rules (PHSA § 2715);
• 90-day limit on waiting periods (PHSA § 2708);
• Nondiscrimination rules for clinical trials (PHSA § 2709);
• Rating limitations (PHSA § 2701);
• Guaranteed issue (PHSA § 2702);
• Guaranteed renewability (PHS § 2703);
• Nondiscrimination based on health status (PHSA § 2705);
• Nondiscrimination for providers acting within scope of licenses (PHSA § 2706);
• Coverage of essential health benefits (PHSA § 2707(a)); and
• Adherence to cost-sharing limits (PHSA § 2707(b)).
Highlights for 2016

- Maximum Out-of-Pocket Requirements
  - Embedded MOOP
- Preventive Services
- Summary of Benefits and Coverage
- Nondiscrimination Rules
- Mental Health Parity
Introduction to Reporting Requirements

- New tax reporting requirements are foundation of IRS enforcement of various tax provisions of the ACA
  - Individual mandate (IRC section 5000A)
  - Employer mandate (IRC section 4980H)
  - Premium tax credits ("PTCs") (IRC section 36B)

- Reporting requirements largely focus on different ACA provisions
  - IRC section 6055 – Individual mandate
  - IRC section 6056 – Employer mandate, PTCs
Introduction to Reporting Requirements

- Forms must be provided to individuals by January 31\textsuperscript{st} of the following year
  - New! March 31\textsuperscript{st} for 2015 reporting

- Forms must be filed with the IRS by March 31\textsuperscript{st} of the following year (February 28\textsuperscript{th} if not filed electronically)
  - New! June 30\textsuperscript{th} for 2015 reporting (May 31\textsuperscript{st} if not filed electronically)

- These rules apply regardless of calendar or non-calendar year plans
Know Your B and C Forms

**1094-B and 1095-B**: Used by providers to report individuals who were enrolled in minimum essential coverage.

**1094-C and 1095-C**: Used by Applicable Large Employers to report offers of health coverage to full-time employees (and enrollment in coverage for full- and part-time employees if the coverage was self-insured).
Know Your B and C Forms

“B” Forms

• Used to report actual enrollment
• Will be used by health insurers to report insured coverage, non-employer plan sponsors to report self-insured coverage, and small employers to report self-insured coverage
• Large employers may use to report coverage provided to non-employees

“C” Forms
# Form 1095-B

## Part I  Responsible Individual

- 1. Name of responsible individual
- 2. Social security number (SSN)
- 3. Date of birth (if SSN is not available)
- 4. Street address (including apartment no.)
- 5. City or town
- 6. State or province
- 7. Country and ZIP or foreign postal code
- 8. Enter letter identifying Origin of the Policy (see instructions for codes):     
- 9. Small Business Health Options Program (SHOP) Marketplace identifier, if applicable

## Part II  Employer Sponsored Coverage (see instructions)

- 10. Employer name
- 11. Employer identification number (EIN)
- 12. Street address (including room or suite no.)
- 13. City or town
- 14. State or province
- 15. Country and ZIP or foreign postal code

## Part III  Issuer or Other Coverage Provider (see instructions)

- 16. Name
- 17. Employer identification number (EIN)
- 18. Contact telephone number
- 19. Street address (including room or suite no.)
- 20. City or town
- 21. State or province
- 22. Country and ZIP or foreign postal code

## Part IV  Covered Individuals (Enter the information for each covered individual(s).)

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<th>(a) Name of covered individual(s)</th>
<th>(b) SSN</th>
<th>(c) DOB (if SSN is not available)</th>
<th>(d) Covered all 12 months</th>
<th>(e) Months of coverage</th>
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Know Your B and C Forms

One copy goes to the IRS and another copy to the “responsible person”
Know Your B and C Forms

One overall transmittal form goes to the IRS
Know Your B and C Forms

“B” Forms

• ONLY used by large employers
• Will demonstrate compliance with employer mandate (Part II)
• If coverage is self-insured, will report on coverage provided to individuals (Part III)

“C” Forms
Form 1095-C

Employer-Provided Health Insurance Offer and Coverage

Part I Employee

1. Name of employee
2. Social security number (SSN)
3. Street address (including apartment no.)
4. City or town
5. State or province
6. Country and ZIP or foreign postal code
7. Name of employer
8. Employer identification number (EIN)
9. Street address (including room or suite no.)
10. Contact telephone number
11. City or town
12. State or province
13. Country and ZIP or foreign postal code

Part II Employee Offer and Coverage

Plan Start Month (Enter 2-digit number):

Part III Covered Individuals

Covered Individuals:
If Employer provided self-insured coverage, check the box and enter the information for each covered individual.

(a) Name of covered individual(s) | (b) SSN | (c) DOB (if SSN is not available) | (d) Covered all 12 months | (e) Months of Coverage

17
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21
22

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.
Know Your B and C Forms

One copy goes to the IRS and another copy to the full-time employee and any part-time employee enrolled in self-insured coverage.

- Form 1095-C
- Form 1094-C
Know Your B and C Forms

“C” Forms

Form 1095-C

Form 1094-C

Only one transmittal form needs to be filed with the IRS
B and C Forms: Reporting for Retiree HRA Plans

- Where an individual is covered by more than one type of MEC provided by the same provider, the provider is only required to report one of the types of coverage (e.g., an employer sponsors an HRA with a self-insured group health plan).
- A provider of MEC generally is not required to report coverage for which an individual is eligible only if the individual is covered by other MEC for which reporting is required.
  - For employer-sponsored coverage, this exception applies only if both types of coverage are under group health plans of the same employer (e.g., an employer sponsors an HRA with an insured group health plan).
  - Reporting is not required for Medicare supplemental coverage. The IRS has informally stated this only applies to coverage like Medigap and not an HRA for which a Medicare-eligible retiree can purchase coverage, such as Medicare Advantage and Medicare Part D.
C Forms: Designated Government Entity (DGE)

- A governmental unit may designate another governmental unit to do the employer mandate reporting on its behalf.
- The designated entity must accept the designation, but is not required to.
- The C Forms must still reflect the name and EIN of the common law employer (i.e., the designating entity).

  Example
  - 10 counties that are applicable large employers enter into agreements with a state government entity that the state will be the DGE for each of the counties.
  - The state government entity files a Form 1094-C on behalf of each of the counties (and one on behalf of itself as an employer of its own employees).
  - Each Form 1094-C would list the name/EIN of the state government entity as the DGE, and the name and EIN of the county as the employer.
  - The Form 1095-C for each employee of each county lists that county as the employer.
HHS Enforcement of Market Reforms - MCEs

- Use exam process recommended by the NAIC and used by State DOIs
- Examine non-federal governmental plans to verify compliance with PHS Act requirements.
- Authority: 45 CFR 150.313
- HHS using a combination of contractors and staff
- Requirements that may be included in Federal PHS Act MCEs
HHS Market Conduct Exams - Targeted

- HHS will generate a list of examinees based on:
  - Complaints,
  - Information from interested parties,
  - Recommendations/requests from regulators, and
  - Other sources
HHS Market Conduct Exams - Steps

- Exam call letter
- Data call letter
- Pre-exam conference
- Conduct exam
- Create preliminary report
- Exit conference
- Plan respond to preliminary report
- Final report
HHS Market Conduct Exams – Post-Exam

- Post-examination
  - Reporting and compliance with Corrective Action Plan (CAP)
  - Final report posted on HHS website
HHS Market Conduct Exams – How to Prepare

- If possible, conduct internal self-assessment
- Know what documents HHS may look for
- Maintain repository of such documents
- Train staff to refer all government inquires to centralized individual
- Be prepared to educate investigators about your plan
- Prepare for interviews
- Be patient and generally don't seek to rush exam to a close
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